

**Amendment and Response**

Applicant: John Walter MacConnell

Serial No.: 10/722,899

Filed: November 26, 2003

Docket No.: M105.102.102

Title: **TELEMETRY SYSTEM AND METHOD**

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**REMARKS**

The following remarks are made in response to the Office Action mailed May 26, 2005. Claims 64 and 66 have been cancelled without prejudice. Claims 1-63 have been allowed. Claims 64-66 and 69 were rejected. Claims 67-68 have been objected to. With this Response, claims 65, 67 and 69 have been amended. Claims 1-63, 65, and 67-69 remain pending in the application and are presented for reconsideration and allowance.

**Allowable Subject Matter, Claim Objections, and Claim Rejections under 35 U.S.C. § 102**

Claims 1-63 were allowed.

Claims 67-68 were objected to for being dependent upon a rejected base claim, but as being allowable if rewritten in independent form including all limitations of the base claim and any intervening claims. Applicant agrees with the Examiner's conclusions regarding patentability without necessarily agreeing with or acquiescing in the Examiner's reasoning. In particular, Applicant believes that the claims are allowable because prior art fails to teach, anticipate or render obvious the invention as claimed, independent of how the invention is paraphrased.

Accordingly, Applicant has rewritten claim 67 into independent form including all limitations of original independent claim 64 and original dependent claim 66. Original claim 68 depends from claim 67.

Claims 64-66 and 69 were rejected under 35 U.S.C. § 102(e) as being anticipated by Holmes et al. U.S. Patent Application Publication No. 2003/0016142A1. With this response, claims 64 and 65 have been cancelled without prejudice. As such, the rejections of claim 64 and 66 are no longer pertinent. Claims 65 and 69 have been amended to depend from and define additional aspects of independent claim 67.

In view of the above, Applicant believes independent claim 67 to be in allowable form. Additionally, since dependent claims 65 and 68-69 further define patentably distinct independent claim 67, Applicant believes these claims to be allowable over the art of record as well.

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**CONCLUSION**

In view of the above, Applicant respectfully submits that pending claims 1-63, 65, and 67-69 are in form for allowance and are not taught or suggested by the cited references. Therefore, reconsideration and withdrawal of the rejections and objections and allowance of claims 1-63, 65, and 67-69 is respectfully requested.

No fees are required under 37 C.F.R. 1.16(b)(c). However, if such fees are required, the Patent Office is hereby authorized to charge Deposit Account No. 50-0471.

The Examiner is invited to contact the Applicant's representative at the below-listed telephone numbers to facilitate prosecution of this application.

Respectfully submitted,

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**CERTIFICATE UNDER 37 C.F.R. 1.8:** The undersigned hereby certifies that this paper or papers, as described herein, are being deposited in the United States Postal Service, as first class mail, in an envelope address to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 20<sup>th</sup> day of July 2005.

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